

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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COOL WIND VENTILATION CORP.,

Plaintiff,

-against-

Case No. CV 00-3678
(LDW/WDW)

**STIPULATION AND ORDER
OF DISMISSAL**

SHEET METAL WORKERS INTERNATIONAL ASSOCIATION, LOCAL UNION NO. 28; JOHN HARRINGTON, by its President and Business Manager of LOCAL 28; SHEET METAL INDUSTRY LABOR MANAGEMENT COMMITTEE AND TRUST, by its Director THOMAS DOHERTY, SHEET METAL AND AIR CONDITIONING CONTRACTORS ASSOCIATION OF NEW YORK CITY, INC.; SHEET METAL CONTRACTORS ASSOCIATION OF LONG ISLAND, INC.; NELSON AIR DEVICE CORP.; KARO SHEET METAL, INC.; AABCO SHEET METAL CO., INC.; BUNKER METAL FABRICATOR'S, INC.; CONTRACTORS SHEET METAL WORKS, INC.; C.W. SHEET METAL, INC.; GENTLEMEN SHEET METAL LIMITED; FRP SHEET METAL CONTRACTORS CORP.; HERITAGE AIR SYSTEMS, INC.; HUDSON SHEET METAL, INC.; NEW YORK SHEET METAL INC.; POWER SHEET METAL INC.; SEA BREEZE MECHANICAL CORP.; STERLING INDUSTRIES, INC., LOCAL 1205 INTERNATIONAL BROTHERHOOD OF TEAMSTERS, AFL-CIO; INTERNATIONAL BROTHERHOOD OF TEAMSTERS, AFL-CIO; and SHEET METAL WORKERS INTERNATIONAL, AFL-CIO,

Defendants.
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IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ JUL 18 2003 ★
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LONG ISLAND OFFICE

WHEREAS, Plaintiff, COOL WIND VENTILATION CORP. ("Plaintiff") and the following named defendants SHEET METAL WORKERS INTERNATIONAL ASSOCIATION, LOCAL UNION NO. 28, BY ITS PRESIDENT AND BUSINESS MANAGER OF LOCAL 28, JOHN HARRINGTON ("Local 28"); SHEET METAL

WORKERS (LOCAL UNION NO. 28) LABOR MANAGEMENT COMMITTEE & TRUST BY ITS DIRECTOR THOMAS DOHERTY (referred to in the Amended Complaint as SHEET METAL INDUSTRY LABOR MANAGEMENT COMMITTEE AND TRUST, by its Director THOMAS DOHERTY) ("LMC"), SHEET METAL AND AIR CONDITIONING CONTRACTORS ASSOCIATION OF NEW YORK CITY, INC. ("SMACNA-NY"); SHEET METAL AIR CONDITIONING CONTRACTORS NATIONAL ASSOCIATION OF LONG ISLAND, INC. ("SMACNA-LI"); NELSON AIR DEVICE CORP. ("Nelson"); KARO SHEET METAL, INC. ("Karo"); AABCO SHEET METAL CO., INC. ("AABCO"); BUNKER METAL FABRICATORS, INC. ("Bunker"); CONTRACTORS SHEET METAL WORKS, INC. ("Contractors"); C.W. SHEET METAL, INC. ("C.W."); GENTLEMEN SHEET METAL LIMITED ("Gentlemen"); FRP SHEET METAL CONTRACTORS CORP. ("FRP"); HERITAGE MECHANICAL SERVICES f/k/a HERITAGE AIR SYSTEMS, INC. ("Heritage"); HUDSON SHEET METAL, INC. ("Hudson"); N.Y. SHEET METAL WORKS INC.(misnamed in the amended complaint as New York Sheet Metal Inc.) ("NYSM"); POWER SHEET METAL INC. ("Power"); SEA BREEZE MECHANICAL CORP. ("Sea Breeze") and STERLING INDUSTRIES, INC. ("Sterling"); (collectively, the "Settling Defendants") have entered into a Confidential Settlement Agreement; ("Settlement Agreement"), and

WHEREAS, the Settlement Agreement was entered into with the intent that this Court would retain jurisdiction for purposes of enforcement of the terms and conditions contained therein, and

WHEREAS, defendants LOCAL 1205 INTERNATIONAL BROTHERHOOD OF TEAMSTERS, AFL-CIO ("Local 1205"); INTERNATIONAL BROTHERHOOD OF TEAMSTERS, AFL-CIO ("IBT") (collectively, the "Separately Settling Defendants"); and

SHEET METAL WORKERS INTERNATIONAL, AFL-CIO ("SMWIA") (the Non-Settling Defendant) are not parties to the Settlement Agreement.

IT IS HEREBY STIPULATED, AGREED AND ORDERED, by and between the undersigned, the attorneys of record for the Plaintiff and the Settling Defendants to the above entitled action, that whereas no party hereto is an infant or incompetent person for whom a committee has been appointed and no person not a party has an interest in the subject matter of the action, the above entitled action including all counterclaims if any be and the same hereby are dismissed with prejudice as to the Settling Defendants only, without costs or attorneys' fees to any party as against the others. The Court shall retain jurisdiction over this matter for purposes of the enforcement of the terms and conditions of the Settlement Agreement; and it is further


ORDERED, that this action is dismissed without prejudice as to the Non-Settling Defendant Sheet Metal Workers International, AFL-CIO; and it is further

ORDERED, that this action shall not operate as an adjudication on the merits of Plaintiff's claims as against the Separately Settling Defendants or the Non-Settling Defendant.

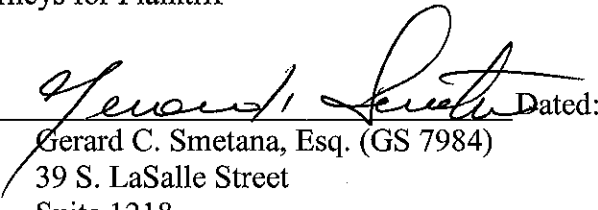
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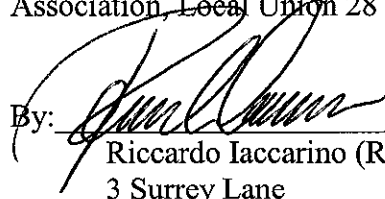
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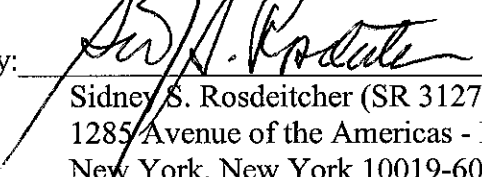
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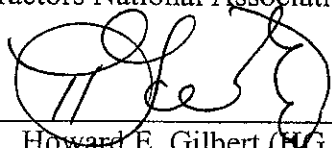
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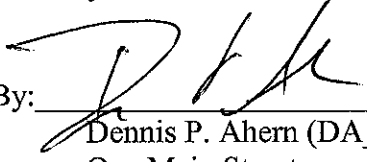
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SO ORDERED:

Dated: Central Islip, New York
June __, 2003

Leonard D. Wexler, U.S.D.J.

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(E)

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Dated: Central Islip, New York
~~June~~ July 18, 2003

✓ _____
Leonard D. Wexler, U.S.D.J.

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